

STATE OF INDIANA)

IN THE MARION COUNTY SUPERIOR COURT

) SS:

COUNTY OF MARION)

CAUSE NO. 49D05-0203-PL-000458

STATE OF INDIANA)

Plaintiff)

v.)

ACCESS RESOURCE SERVICES, INC.,)
doing business as Mind and Spirit and)
Psychic Readers Network,)

Defendant.)

FILED

OCT 25 2002

J. A. M. Taylor
CLERK OF THE
MARION CIRCUIT COURT

RECEIVED

OCT 28 2002

ATTORNEY GENERAL OF INDIANA
CONSUMER PROTECTION**CONSENT JUDGMENT**

Come now the Plaintiff, State of Indiana, by Attorney General Steve Carter and Deputy Attorneys General Justin G. Hazlett and David A. Paetzmann, and the Defendant, Access Resource Services, Inc. ("ARS"), and submit this consent judgment.

GENERAL PROVISIONS

1. The provisions of this consent judgment are entered pursuant to Indiana Code §§ 24-5-0.5-1 through -12, and apply to ARS, its affiliates, subsidiaries, and successors in interest.
2. The injunctive provisions of this consent judgment apply to Peter Stolz ("Stolz") and Steven Feder ("Feder") personally, and will continue to apply to each of them beyond their association with ARS. Any reference to "defendant" in the injunctive provisions shall be read to include Stolz and Feder personally. The injunctive provision of paragraph 15 applies, and will continue to apply, to each of them only with respect to the advertising, promoting, offering for sale, selling, delivering, billing, or collecting for pay-per-call psychic services. Stolz and Feder

acknowledge their acceptance of this paragraph, accept the Court's jurisdiction over them to enforce the injunctive provisions of this consent judgment, and waive all objections and defenses to the application of the injunctive provisions of this consent judgment.

3. For a period of two (2) years following the entry of this consent judgment, before either Stolz or Feder commences any activity related to pay-per-call services as an owner, officer, or in any position to control or direct the activities of an entity providing pay-per-call services or services related to the pay-per-call services business, he shall provide seven (7) days written notice to the Office of the Attorney General. Said notice shall:

- a. identify the corporation, partnership, sole proprietorship, or other business entity with which or by which he will engage in activity related to pay-per-call services;
- b. describe his role in such entity, including his work duties, and the activities in which the entity will engage;
- c. state whether he has an ownership interest in such entity, and if so, the extent of such interest;
- d. state the beginning and, if known, ending dates of his association with such entity;
- e. refer to this consent judgment and to Cause No. 49D05-0203-PL-000458; and
- f. be sent by United States certified mail, return receipt requested, addressed to the Office of the Indiana Attorney General, Consumer Protection Division, 302 W. Washington St., IGCS 5th Floor, Indianapolis, IN 46204.

4. This consent judgment does not preclude the State from pursuing any civil or criminal action with respect to the acts or practices of ARS not covered by this consent judgment or any acts or practices of ARS conducted after the effective date of this consent judgment.

5. Nothing in this consent judgment constitutes approval by the State of ARS's past or future practices. ARS shall not make any representation contrary to this paragraph.

6. The defendant denies any wrongdoing as alleged by the State of Indiana and this consent judgment does not constitute an admission of any kind or a finding that the defendant has engaged in any unlawful practice.

DEFINITIONS

7. "Account" or "accounts" means an account or accounts related to pay-per-call services.

8. "Pay-per-call services" has the meaning currently set forth by 47 U.S.C. § 228(i).

FINDINGS

9. The State has filed its Complaint against ARS, alleging that through its telemarketing of pay-per-call psychic services and related collection efforts directed toward Indiana consumers it has violated Indiana consumer protection laws.

10. The parties have agreed to this consent judgment to resolve the disputes raised in the State's Complaint, and to address the continued business activity of ARS, Peter Stolz, and Steven Feder.

11. ARS has ceased all telemarketing in Indiana, has ceased all forms of advertising in Indiana, and has directed the entities providing the 900-number telephone lines to its pay-per-call service to block such numbers so as to prevent access from Indiana consumers.

12. ARS ceased all collection activity in Indiana on July 8, 2002, and has not assigned, sold, or otherwise transferred the right to collect payment on any Indiana consumer's account it created.

13. ARS has permanently ceased pay-per-call services business and operations related to the pay-per-call services business.

INJUNCTIVE PROVISIONS

The parties agree, and this Court orders, that in connection with the advertising, promotion, offering for sale, sale, delivery, billing, or collecting for any goods, pay per call services, or other services (hereinafter referred to collectively as "goods or services") to Indiana consumers:

14. The defendant is permanently restrained and enjoined from making, or causing or assisting others to make, expressly or by implication, any false or misleading representation including but not limited to:

- a. misrepresenting that its goods or services, or a portion of them, are free;
- b. misrepresenting that a free portion of its goods or services will provide advice, benefits, information, or guidance specific to consumers for the duration of the free portion advertised;
- c. misrepresenting, or providing contradictory instruction with respect to, the method of terminating any transaction so as to avoid incurring charges;
- d. misrepresenting that a consumer will not be charged for goods or services or a portion of them, or misrepresenting in any other way the charges that a consumer will incur as a result of using any goods or services offered by the defendant; or

e. misrepresenting the actions available to it or the actions it intends to take to collect an amount it claims a consumer owes to it, or misrepresenting the consequences a consumer might suffer as a result of that consumer's failure to pay the same.

15. The defendant is permanently restrained and enjoined from advertising, promoting, offering for sale, selling, delivering, billing, or collecting for pay-per-call services to Indiana consumers, or assisting another with such activity.

16. The defendant is permanently restrained and enjoined from violating any provision of the Deceptive Practices Act, Ind. Code §§ 24-5-0.5-1 through -12.

17. The defendant is permanently restrained and enjoined from violating any provision of the Regulation of Automatic Dialing-Announcing Devices Act, Ind. Code §§ 24-5-14-1 through -13.

18. The defendant is permanently restrained and enjoined from advertising, promoting, offering for sale, selling, billing, or collecting for pay-per-call services to or from a minor, or assisting another with such activity.

CONSUMER AND STATE REDRESS PROVISIONS

19. The defendant shall close all accounts it has created for Indiana consumers, shall credit each such account for the full amount the defendant claimed the particular consumer owed so as to make the balance owed on such account zero dollars (\$0.00), and shall not collect or attempt to collect, assign, sell, or otherwise transfer the right to collect balances it claims were owed on the accounts.

20. The defendant shall not assign, sell, or otherwise transfer any information related to the accounts it created for Indiana consumers, unless such transfer is necessary to cooperate with

a court order, or the request of any state Attorney General or any other law enforcement authority. This provision shall not be construed to require the defendant to recall account-related information that it had already assigned, sold, or otherwise transferred as of the date the defendant executes this consent judgment.

21. The defendant shall issue corrective information to each credit reporting agency to which it has reported negative information pertaining to Indiana consumers, amending and removing adverse credit information placed by the defendant, if any.

22. The defendant shall refund the full amount paid by each Indiana consumer who:

- a. has paid the defendant in response to its collection activities; and
- b. who either:
 - i. filed a complaint against the defendant with the Office of the Attorney General as of the date the Court approves this consent judgment, or
 - ii. files, within sixty (60) days following the date the Court approves this consent judgment, a complaint against the defendant with the Office of the Attorney General; and
- c. whose complaint alleges conduct by the defendant that is addressed by this consent judgment; and
- d. whose complaint was received by the Office of the Attorney General in the ordinary course of business.

23. The Office of the Attorney General shall be the final arbiter of whether a consumer is entitled to a refund in accordance with this consent judgment.

24. The defendant shall pay any refund owed per the terms of paragraph 22 within thirty (30) days of learning of it, or within thirty (30) days of the plaintiff's having sent notice to the

defendant's attorney, Sean Moynihan of the law firm Klein, Zelman, Rothermel, and Dichter, L.L.P., at 485 Madison Avenue, New York, NY 10022.

25. Prior to the entry of this judgment, the defendant shall pay to the Office of the Attorney General Twenty Thousand Dollars (\$20,000.00), to be allocated or used for costs, consumer education programs, consumer restitution, or for such other purposes as the Attorney General deems in the interest of the State and its consumers.

STEVE CARTER
Attorney General of Indiana
Attorney no. 4150-64

ACCESS RESOURCE SERVICES, INC.

By: _____

Justin G. Hazlett
Deputy Attorney General
Attorney no. 22046-49

By: _____

Peter Stolz
President

Date: _____

Date: 10/18/02

By: _____

David A. Paetzmann
Deputy Attorney General
Attorney No. 6392-23

Date: 10/22/02

PETER STOLZ, individually

Peter Stolz

Date: 10/18/02

STEVEN FEDER, individually

Steven Feder

Date: 10/18/02

OCT 25 2002

APPROVED AND ENTERED this _____ day of October, 2002.

Victoria M. Ransberger
VICTORIA M. RANSBERGER
Master Commissioner

Judge, Marion County Superior Court 5

DISTRIBUTION TO:

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Justin G. Hazlett, Deputy Attorney General
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Indianapolis, IN 46204
(317) 232-3442

Access Resource Services

Peter Stolz

Steven Feder

c/o Sean A. Moynihan

Klein, Zelman, Rothermel & Dichter, L.L.P.

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(212) 935-6020.